

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

Civil Action No. 3:14-CV-47

GEORGIA FERRELL, as Administratrix  
of the Estate of A.P. FERRELL

Plaintiff,

v.

CITY OF CHARLOTTE, COUNTY OF  
MECKLENBURG, RANDALL W.  
KERRICK, both individually and in his  
official capacity as a law enforcement  
officer with the Charlotte-Mecklenburg  
Police Department, and RODNEY  
MONROE, in his official capacity as a law  
enforcement officer with the Charlotte-  
Mecklenburg Police Department,

Defendants.

**NOTICE OF REMOVAL**

Comes now Defendants City of Charlotte and Chief Rodney Monroe, by and through their undersigned counsel, and files a Notice of Removal of this case to the United States District Court for the Western District of North Carolina, Charlotte Division, based on the following grounds:

1. Counsel for the City represents to the Court that he has conferred with counsel for all other Defendants and that they consent to this removal.
2. On January 13, 2014, Plaintiff filed the above-captioned matter in the Superior Court Division of the General Court of Justice in Mecklenburg County, North Carolina.
3. All Defendants accepted service of Plaintiff's complaint on January 24, 2014.

4. Defendants are filing this notice within thirty (30) days of its receipt of the Complaint as required by 28 U.S.C. § 1446(b).
5. The aforementioned state court lies within the district and division of the United States District Court to which this Notice of Removal is filed.
6. This is a civil action in which the Court has original jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiff has alleged damages under 42 U.S.C. § 1983 for violations of the decedent's civil rights as guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution. (See Plaintiff's complaint ¶¶ 125-134) As such, removal is appropriate under 28 U.S.C. § 1441(a).
7. Plaintiff has also alleged state causes of action for Wrongful Death, Negligence/Gross Negligence, and Assault and Battery, and "Acts of Malice." Plaintiff also seeks punitive damages. All of these claims for relief are so related to Plaintiff's § 1983 claims "that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). As such, the Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a), of the causes of action brought by Plaintiff in this lawsuit under North Carolina law.
8. As required by 28 U.S.C. § 1446(a), copies of all process and pleadings (civil summonses and the Complaint) served to date on Defendants are attached to this Notice of Removal as "Attachment A."
9. As required by 28 U.S.C. § 1446(d), copies of this Notice will be served upon the adverse party, by and through their noticed attorney, as well as the Clerk of Court for the Superior Court Division of the General Court of Justice in Mecklenburg County, North Carolina.

An unfiled copy of the Notice of Filing of Notice of Removal that will be filed subsequent to this filing is attached to this Notice of Removal as “Attachment B.”

Respectfully submitted, this the 3rd day of February, 2014.

OFFICE OF THE CITY ATTORNEY

/s Mark H. Newbold

Mark H. Newbold  
N.C. Bar #26296  
Deputy City Attorney-Police  
601 East Trade Street  
Charlotte, N.C., 28202  
704 336 4977  
704 336 4107 (fax)  
mnewbold@cmpd.org

/s Daniel E. Peterson

Daniel E. Peterson  
N.C. Bar #41521  
Assistant City Attorney  
600 East Fourth Street  
Charlotte N.C. 28202  
704 432-5397  
704 632 8298 (fax)  
dpeterson@ci.charlotte.nc.us  
***Attorneys for Defendants City of Charlotte and  
Chief Rodney Monroe***

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that the foregoing Notice of Removal was served in this action by depositing a copy of same in the United States mail, postage prepaid, addressed to Plaintiffs' counsel:

Charles G. Monnett III, Esq.  
6842 Morrison Boulevard, Suite 100  
Charlotte, N.C. 28211  
***Attorney for Plaintiff***

This, the 3rd day of February, 2014.

OFFICE OF THE CITY ATTORNEY

/s Mark H. Newbold

Mark H. Newbold  
N.C. Bar #26296  
Deputy City Attorney-Police  
Attorney for Defendant  
601 East Trade Street  
Charlotte, N.C., 28202  
704 336 4977  
mnewbold@cmpd.org

/s Daniel E. Peterson

Daniel E. Peterson  
N.C. Bar #41521  
Assistant City Attorney  
600 East Fourth Street  
Charlotte N.C. 28202  
704 432-5397  
704 632 8298 (fax)  
dpeterson@ci.charlotte.nc.us  
***Attorneys for Defendants City of Charlotte and  
Chief Rodney Monroe***